G. R. S. 58]

*Previous references.*

1898.
~~191~~.
( S & A. )

File No. 12 of 1898.

Serial Nos. 166.

*Later references.*

# GENERAL AND REVENUE SECRETARIAT.

Commissioner

*Serial Nos.* 166

Mag^N ~~Part~~ B for September 1901.

SUBJECT.

Pension case of Shamanna, late Sheikdar Sasavekalli Hobli, Honnalli Taluk.

Sl 6 No. 4681-2 d/24/9/01 To — Comptroller
Gf. 14-99 " D. C. Shimoga.
States that the Govt: on reconsideration think that the deduction to be made under art 321(a) for the purpose of art 322 should be computed with reference to age at the Commencement of the Superior service for which pension is granted.

W D 1351—GPB—20,000—13-12-15

Indexed
Marasimha Rao

Office Note (2) (2)

Letter No: 8106/777 dated 22nd June/99 from the Comptroller to the Govt: of Mysore, submitting for orders duly verified and reported on an application for pension on behalf of Shamanna late Shekdar Sasivalli Kobli.

---

In the Pension application submitted with the above it will be seen that the total period of qualifying service put in by Shamanna amounts to 18-7-~~21~~ 22 of which 2-4-4 were in the ~~and~~ 16-3-17 in the Superior grades. The former being less than 5 years the Applicant is not entitled to a gratuity under art 324 (a) i. He is however entitled for the latter service to a superior pension

pension of Rs. 4-6-0. But as he had been over 30 years of age at the time when the qualifying service began he would get Rs. 4-6-0 minus $\frac{11}{40}$ of the said amount (vide art: 321 (a) of the L. S. Regns) viz: Rs. 3-2-10.

The Comptroller in ch. certifying to this amount makes a remark under "; report on the application that if the words "commencement of his qualifying service" in art: 321(a) could be taken to mean commencement of service which generally qualifies* and not "commencement of service qualifying for pension to which the applicant is entitled" the amount to be deducted would be less and the applicant entitled to a

* vide arts: 234 & 36

pension of Rs. 3-6-4
instead of Rs. 3-2-10.

The case under reference being one of superannuation pension, the words "Commencement of qualifying service" cannot, it is submitted, be properly taken to mean the date of applicant's first entry into service, viz: 11th Sept'r/77
Submitted for orders.

10/8/99

Sub'd. & 1st. Cons'r.

I venture to think that the words "qualifying service" in article 321(a) cannot be taken to include the inferior service of Rs. 2-4-4 which does not qualify for pension or gratuity either. 10/8/99.

(3)

The Comptroller
with the Govt. of
Mysore

8 12th Aug. 99.

Sir

I have the honour to refer to your letter No. 5106 of 777 22nd June 99 submitting for orders an application for pension on behalf of Shamanna late of Gorkalen in the Hebballi Taluq - Shimoga Distt.

Adverting to the Comptroller's remarks at foot of page 3 of the Pension appn. (herewith returned) I have the honour to observe that the term "qualifying service" is defined in Article 351 of the Civil Service Regulations as service which satisfies the conditions prescribed in Sections I, II & III of Chapter XII Part II C.S.R. It is divided into 5 sections and Superior (article 255). All qualifying service does not entitle a man to pension or gratuity but any such qualifying service as is taken over by the Mysore Govt. when the officer is transferred to this State from the Imperial Service is a qualifying service. For his part for Superior qualifying service of less than 5 years, no pension or gratuity is admissible (article 324). In the present case the qualifying service of the officer commenced on the date when he was appointed to the Superior Grade. From the terms of article 324(a), therefore that date has to be taken into account. The period of Superior service being less than 5 years, no pension or gratuity is allowable thereon. The British Rules have

P.T.O.

on the view of the
Amendment to Article Rule
321 [illegible] is as follows

"For the purpose of applying
Article 321(a) the date of
commencement of qualifying
service of a Solicitor or
Notary Public, promoted
after [illegible] in some Article
is the date of actual
"commencement of superior
service"

In the present case
Shamsuna entered the
superior service of [illegible] on 11.9
when he was more than
30 yrs old. His qualifying service
began on 15 Jan 1950. For
purposes of pension his
qualifying service (excluding
superior service) [illegible]
from 11. 9. 77, and, as
distinctly laid down in Rule
321(a), the reduction of 1/60
has to be made from the
commencement of the superior
service, i.e., from 11. 9. 77. The
case admits of no doubt
whatever & that as the Govt
has not applied the Rule
correctly & happened has doubt
of a good rule. I therefore the Govt
comm'n to be to consult his Ld
Advocate before [illegible] any

the same as the superior Rules
in this respect (Vide
~~Article~~ Rule 31(b)). The
increased pension of Rs 3—6—
refused to me the (accountant
General) communication may
accordingly be sanctioned

Dated Bangalore
31—8—29

I have myself no doubt-
as to the interpretation of
Article 321(a)

The words "at the com-
mencement of his qualifying
service" clearly mean
"commencement of the service
under Govt whether it was
superior or inferior service"

Reading Article 321(a) with
Article 322, there can be
no doubt that the commence-
ment of qualifying service referred
to in Article 321(a) is the date
on which he entered the
service of Govt — tho' in an
inferior capacity —

I am further fortified

as to the interpretation of article 321(a) of the Indian Service Regs. as therein contained is rightly understood. The article in question seems clear enough, but if the Comptroller entertained any doubts about it at all his proper course was to have made a special reference for the orders of Govt. explaining his reasons fully & quoting precedents if any or the rule obtaining in Madras or elsewhere. He is requested to be so good

Extract from the Mysore Service Regulations.

Beginning of Service.

234. (a) Except for compensation gratuity, an officer's service does not in the case of superior service qualify till he has completed twenty years of age.

(b) In other cases unless it be otherwise provided by special Rule or contract, the service of every officer begins when he takes charge of the office to which he is first appointed.

235. In the case of Inferior service counts after the age of sixteen years, but if an Inferior officer appointed after the 1st April 1880, has, on the date of such appointment, attained the age of forty years, his service does not qualify for pension or gratuity of any kind.

Note.-( The proviso in this article does not apply to an Inferior servant who is re-employed after discharge on compensation pension or gratuity.)

Conditions of Qualifications.

236. The service of an officer does not qualify for pension unless it conforms to the following 3 conditions:-

First;-The service must be under Government.

Second;-The employment must be substantive and permanent.

Third;- The service must be paid by Govt.

These three conditions are fully explained in the following sections.

Reduction in certain cases.

321. (a) A Superannuation pension or Invalid pension granted on account of incapacity for further service due to old age or natural decay from advancing years, shall, if the officer's qualifying service began after the 20th January 1871, after he

attained the age of thirty years, be reduced by one-fourth for every year or part of a year by which his age at the commencement of his qualifying service exceeded thirty years.

(b) Gratuities are not subject to any reductions, and in the case of pensions, the fixed limits are to be applied before and not after making the reduction.

322. Clause(a) of the preceding article applies also to the Superior pension of an Officer promoted from Inferior to Superior service after the 20th January 1871 if the Officer entered the service of Government after he attained the age of twenty-five years.

Extract from the British Civil Service Regulations
3rd Edition, Chapter XIX.

Reduction in certain cases.

521(a) A superannuation pension, or an invalid pension granted on account of incapacity for further service due to old age or natural decay from advancing years, shall, if the officer's qualifying service began after the 20th January 1871, and after he attained the age of thirty years, be reduced by one-fortieth for every year or part of a year by which his age at the commencement of his qualifying service exceeded thirty years.

Note (1) [Article 521(a) is not applied in calculating the second pension of an officer who is re-employed after discharge on compensation pension or gratuity].

Notes 2-3-4 & 5 are not in the Supreme Regns.

Note (2) [The amount of pension under this Article is now — $P\left(\frac{70-x}{40}\right)$, where P is the full pension and x is the age at entry into service (and therefore greater than 30)].

Note (3). — In the case of Jail officers in the Bombay Presidency who previously to joining the Jail Department had served in the Army, the limit of age for the purpose of this Article has been fixed at thirty-eight years.]

Note (4). - [Port Officers in Madras are exempt from the operation of this ——— Article.]

Note (5) — [This article does not apply to the †Officers subject to the rule in Article 441 A.]

† Educational

(b) Gratuities are not subject to any reduction, and in the case of pensions the fixed limits are to be applied before, and not after, making the reduction.

GOVERNMENT OF MYSORE

# Memo

The disposal of the accompanying 3 Pension applications of the undermarginally noted individuals depends on the orders to be passed on Comptroller's Do. 2035 of 6-10-99 requesting to reconsider the ruling laid down in Govt. Pro. Do. 3490/292 of 12-9-99 regarding the interpretation of Arts. 321 & 322 of the Pn. S. Regns.

Submitted.

13/10/00

Sub. Asst. 15/10

Sri. Venkatasamy late Piece Work compositor. (PA No. 785.)

Sanjeeva Naik late Class I Jamedar Chicknaikenhully Taluk Police (PA No. 582)

Nanjappa late 1st Class Jamedar Chickmagalur Tk. Police (PA No. 524)

Inam

The pension application
of Shamanna referred to
accompanying Docket-No: 537 of 22-1-00 from the
in the, Shimoga Dy: Comm
~~Docket No. 6614 of 22nd Jan 00~~
537
has been disposed of in
Govt. Ord: No: 3490 of 12th Sept 99,
Spare copy of which is
herewith put up. The orgl
papers connected with this
case were submitted to
Secretary on 11th Nov/99
with Comptroller's letter
No: 2035 of 6th Oct/99 beg-
ging for the reconsidera-
tion of the order contained
in the said Proceedings.

There are 3 more pension
applications of similar
nature since received
from the Comptroller.
These applications are now
put up. The question
of revising the Govt order

1. Pension application of Shama Rao
late Rev: Gumasta, Sidlaghatta
Taluk.
1 —do— Mahomed Osman Sahib
late Asst: Master Hindustani
Boys School, Sidlaghata
1 —do— Kempraiah, late Police
Jamedar
Turuvekere Sub Taluk.

3

(9).

(9)

Submitted.

The point involved in the case of Dhanmanna retired Sheristadar of Sakri Taluk, Dharwar District & on which final orders have been passed by the Revd Comrs is an important one. It is respectfully submitted that before passing the orders it seems better if obtain the opinion of the Accountant General Madras on the point. May the Comptroller be asked to consult ~~him~~ that authority & submit his views?

LQ
11/1/07

Asked with D.O. Docket to Comptroller Madras.
LQ 11/1/07

Supd. Secy.

The above appears to be a good suggestion, and in my humble opinion it would be as well to find out how the articles in question are worked in Madras before revising the printed orders already passed by Govt. in the case.

K.K.

[illegible]/1/01.

Both your note throwing a doubt on the Govt's interpretation of the

article in question, & the office [illegible] dealing with a [illegible] in accordance with that interpretation & ignoring the doubt, have been initialled by the 2d C[illegible]. I am thus left in doubt as to what the order is that should now be passed. There is an important general financial question involved.

If I understand the case aright, some further investigation of the question seems necessary. Make the enquiry suggested by the office & on receipt of a reply, I shall again put up to the 2 M[illegible] if necessary.

Office Note (1)

Serial No: 5 of Shamanna's file.

The Comptroller, in his letter No: 2035 of 6th October/99, acknowledges the receipt of Govt. Ord: No: 3490/2192 dated 12th Sept/99 and begs its reconsideration on the ground that the word "qualifying service" occurring in art-321(a) of the Insp Service Regulations if interpreted as was done by Govt: in disposing the case of Shamanna, would render the operation of art-322 altogether impracticable. In reviewing the letter of the Comptroller the following points deserve notice.

D. Serial No 4 of Shamanna's file.

In paras 4 and 5 of his letter the Comptroller refers to articles 234 to 236 of the So. S. Regns for

bor definition of the Commencement of qualifying Service". These articles contemplate that the commencement of Service is in case of Superior Service alone or Inferior Service alone - But the question already is what the commencement of Service is in case of mixed Service comprising with Inferior & Superior. The Comptroller is of opinion that the definition of "beginning of qualifying Superior Service" in Art-234 (a) & (b) presumes inferior Service if any which may have been rendered prior to superior Service proper. Whether this assumption is implied in Art. it has to be decided by Govt. even if the Comptroller's view be correct this definition only for the purpose of reckoning the amount of pension. as the word qualifying occurring in Art-234 implies,

the words "qualify" & "count" in the Service Regns. meaning as qualify & count for pension as laid down in art-37. The question however arises can this same definition be accepted for the purpose of deduction under art-321.

In the latter part of para (5) of his letter the Comptroller points out that a term duly defined in the Regulations is intended to be used throughout in one & the same sense unless there are special rules to the contrary, & his contention is that as art. 321 relates to the superior pension of an officer who has put in superior service & inferior service alone, the words "at the commencement of qualifying service" occurring in this art: can have no other meaning than "Commencement of superior service" and as such ~~not~~ when applied to

those who come under art
322 must have the same
meaning. The interpretation
of "Commencement of Qualifying
Service in art 321 as "Com-
mencement of Inferior Service"
in the case of Inferior Servants
& as "Commencement of inferior
Service" in the case of those
who come under art 322
would, he thinks, be un-
reasonable. The Comptroller's
view would be correct &
his contention reasonable
if the "term duly defined"
was used in a particular
sense, in which case it
would be applicable to
a single particular case.
But it is possible that such
a term may be used
in a general sense
capable of being applied
to more than one particu-
lar case. If the deduction
under art 321 was restricted to
Inferior Service alone the

the argument brought for-
ward by the Comptroller
would be plausible. But
as a matter of fact this
deduction under art 321
has in certain cases to be
made also from Superior
Pension as laid down in
Art 328. So that it is evident
that the words "Commencement
of qualifying Service" in Art.
321 were intended to be under-
stood in a wider and General
Sense capable of being appli-
plied to both Superior and
Inferior Pensions. In this
General Sense the words
would mean the date of
1st entry into Service.

But as pointed out
by the Comptroller ~~that~~ this
interpretation of the words
"at the Commencement of
qualifying Service" in the
General Sense would render
art. 322 of the In. S. Regns.
inoperative, not wholly as
inferred

-ferred by the Comptroller
-t only in those cases that
-me under that article
here the age at the date
-f his entry into service is
ver 25 and below 30. The
Comptroller states that art.
2 was intended only for those
no enter Inferior Services
-ters age of 25 years & before
0 and thus concludes that
-t is wholly inoperative. But
-e article does not restrict
-e & less than 30 years, so
-at the rule is not altogether
noperative.

-bmitted for orders.

-/99

-o my humble
-nderstanding there
-ems to be much force
-the arguments advanced
-by the Comptr. more

especially in para 6
of his present letter.
I do understand
the matter aright
arts: 321 & 322
prescribe the conditions
under which deduc-
-tions have to be
made from claims
for Superior pension
and art: 328 for
Inferior pension.
The words "commence-
-ment of qualifying
service" in art: 321
(a) be interpreted to
mean 'commencement
of service qualifying
for the pension
which the applicant
is entitled' then
all the 3 articles

ek. It would be
workable, but under
the interpretation of
the Govt. order of
12th Sept. 66 cases
can be imagined in
the light now thrown
on the subject, in
which Govt. would
be the loser. To take
the case of a man
who was 26 yrs. old
when he entered the
Govt. service on
20/2/66 & who was
promoted to Superior
Service on 20/2/71 the
rule of deduction
as envisaged in Art. 3(2)(a)
could not be applied to

+ Art. 3(2)

him of the date
of commencement
of qualifying service
be taken the two
date of entry into
the Service being
as otherwise being
and 26 thereafter
entertained he
would escape the
operation of the
rule of deduction.

10/11/49

Read from
seen have
on file

Subs to D.C.

15764

In connection with this,
a draft order prepared
in a similar case is also
subs for approval at 11-ante

8/11/49

Disposal of
enclosures

P.T.O.

submitted for Sec'y

The Comptroller was in this office Docket-No: 4103 dated 17th January/91, PSA 88 asked to obtain the views of the Accountant General Madras on the practical application of Art. 321 A of the M.S. Regns. - Now the Comptroller submits copy of Accountant G's letter No. Pen V 577 12784 of 25th March from which it will be seen that the Accountant General concurs with the views of the Comptroller.

MM 20/4/91 If the Comptroller's opinion backed by the practice prevailing in G India be accepted, Law O 12/9/95 to be reconsidered

Rather curious that the Sections required to send not be in the file - While a large bundle of irrelevant papers makes it look

Respectfully with copies of the Articles in question

19/5/07

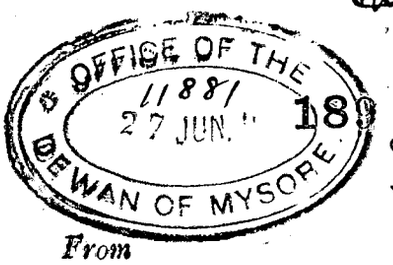
Submitted to the Secretary for orders.

I do not see any reason to contend that the construction put upon the Section by the Comptroller & the Acctt General of Accounts is wrong. That the Superior Service & Inferior Service are regarded as separate in the Pension Code appears clear from the provisions of S. 258.

I would suggest that the pension of Samanna granted after a recommendation (which was admittedly equivocal) from the Comptroller may stand but that for the many qualify the proofs as having no application as a general ruling.

19/5/1907

Rd 21.5.07
670




P & A, 7344.

*From*

E. R. SUBRAYER, Esq.,

*Comptroller, Govt. of Mysore.*

1299

*To*

*The Secretary to Goveqnment,*
*Gen. & Rev. Depts.*

*Dated* 22-6-99

*Despatched*

*Received*

*General No.* 8106

*No.* 777.

*Enclosure No.* 2

---

SUBJECT

---

Forwarding an application for Pension (Gratuity) reported on for the orders of Government.

Recd 30-6-99

Subd with an

[Fin. 104]

# APPLICATION FOR PENSION OR GRATUITY.

1/62

1. Name of applicant— Shamanna

2. Father's name— Narasappa

3. Race, sect and caste— Smartha Brahman

4. Residence— Honhalli

5. ~~Present~~ or last employment, including name of establishment— Sekdar, Sorihalli of the Honhalli Talu

6. Date of beginning of service— 11-9-1877 { Inf. s. 38 odd / Sup. s. 40 odd }

7. Date of ending of service— 30-9-1898 (58)

| | Y. | M. | D |
|---|---|---|---|
| 8. Length of service, including interruptions ... ... | 21 | | 20 |
| of which Superior ... ... | 16 | 3 | #17 |
| Inferior ... ... | 2 | 4 | 4 |
| Non-qualifying and interruptions | 2 | 5 | 4—29 / 0 |

9. Class of Pension or Gratuity applied for, and cause of application*— Superannual pe under article 311 of the

10. (Average) emoluments or pay— Rs 16 6 8

11. Proposed Pension— ~~Rs 4-6-0 for the Superior service rendered.~~ Rs 3-2-10 / 3-16-4 Applic

12. Proposed Gratuity— ~~Rs 10 (Ten only) for the Inferior~~ do / Nil

13. Date from which pension is to commence— 1st October 1898

14. Place of payment— Honhalli

15. Date of applicant's birth by Christian era†— 26-1-1839

16. Height— 4 ft - 10 1/2 in

17. Marks— Complexion brown; a thin man of medium size

18. Date— 5th April 1899

H. Macpherson

*Signature of Head of Office.*
Deputy Commissioner

* If the application is for a compensation, pension or gratuity, the nature of the change of establishment which has given rise to the claim should be fully stated.

† If not known exactly, must be stated on the best information or estimate.

Service (showing interruption) of Shamanna late Sekdar, Sasvihalli hobli, Honnali Taluk

| Establishment | Appointment | Pay | Acting allowance | Date of beginning | Date of ending | Period reckoned as service Y. | M. | D. | Period not reckoned as service Y. | M. | D. | Remarks | How verified | Remarks by Comptroller |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| nali Taluk. | Shroff | 10 | . | 11.9.77 | 14.1.80 | 2 | 4 | 4 | . | . | . | | | |
| do | do | 15 | . | 16.1.80 | 24.6.94 | 12 | 7 | 13 | 1 | 9 | 27 | | | |
| ripur Taluk | do | 15 | . | 25.6.94 | 12.12.95 | 0 | 10 | 15 | . | 7 | 3 | | | |
| ali Taluk | Sekdar | 15 | . | 13.12.95 | 30.4.97 | 1 | 4 | 18 | . | . | . | | | |
| | Sasvihalli | | | | | | | | | | | | | |
| | Hobli — | | | | | | | | | | | | | |
| do | do | 20 | . | 1.5.97 | 30.9.98 | 1 | 5 | . | . | . | . | | | |
| | | | | Total | — — — | 18 | 7 | 21 20 | 2 | 5 | 27 | | | |
| | | | | Leave Statement | | | | | | | | | | |
| | Leave without pay | | | 10.1.83 | 20.3.83 | . | . | . | . | 2 | 11 | | | |
| | | | | | 10.9.83 | | | | | | | | | |

d Taluk Cancelled

Remarks by Head of Office.

| | |
|---|---|
| 1. As to character and past conduct of applicant ... | ✓ Satisfactory — ✓ |
| 2. Explanation of any suspension or degradation ... | ✓ Nil — |
| 3. Regarding any gratuity or pension already received by applicant (*see* Chapter XIX). | ✓ Nil |
| 4. Explanation under Article 279 so far as the Head of the Office can give it. | ✓ Nil |
| 5. Any other remarks. | Retired at his own option under Art 311 of the Mysore S Regulation |
| 6. Specific opinion of Head of Office whether the service claimed is established and should be admitted or not [*see* Article 472 (*b*)]. | ✓ The Service claimed is established and should be admitted 1/11/26 |

H. Manjunday
*Signature*
Deputy Commissi

## CERTIFICATE AND REPORT OF COMPTROLLER.

Certified that (subject to the remarks below recorded) qualifying service in Inferior ~~or~~ Superior and grades has been duly proved for 18 years, 7 months, 21 days;

and that a Pension ~~(or Gratuity)~~ not exceeding Rs. 3-2-10 (three annas ~~&~~ pies ten) is admissible under Article 258 311 320 (b) & 324 (a) of the Mysore Service Regulations.

The calculations have been duly verified. The Pension ~~(or Gratuity)~~ is chargeable to General Revenues. and has been calculated at 16/60 ths of the annual emolum viz Rs 16-6-8 less 11/40 ths of the same under artcl 321-(a)

The amount to be deducted under art. 321-a has been computed taking into account the age of the applicant at the commencement of his superior service. and not that at his first entry into service. If the words "commencement of the qualifying service" in art 321-a be taken to mean "commencement of service which generally qualified as defined in articles 234-'36" and not "commencement of service qualifying for the pension to which the applicant is entitled" the amount to be deducted would be to

[Alteration is invited to Article 317-(c) of the Regulations]

for Comptroller, Mysore Govt.

THE ENTRIES IN THIS FORM ARE TO BE RENEWED OR RE-ATTESTED EVERY FIVE YEARS; EACH ATTESTATION SHOULD BE CAREFULLY RULED OFF AND THE DATE THEREOF CLEARLY SHEWN.

| Name of Officer. | Caste or Race. | Residence. | Father's Name. | Father's Residence. | Date of Birth. | Age. Years. | Age. Months. | Age. Days. | Exact Height. Feet. | Exact Height. Inches. | Personal marks for Identification. | Date of Entry into Service. | Signature of Officer. | Signature and Designation of the Head of the Office. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | 22 | 2 | | 4 | 10 | [illegible] | 11-9-77 | [illegible] | [illegible] |

| 8 Character of Officer. *No entry need be made in this Column except when there is any thing either good or bad to be recorded. Suspension should be noted here when the order of suspension is passed, and re-instatements in like manner.* | 9 Signature and designation of immediate Head of the Office. | 10 Date of termination of Appointment. | 11 Reason of termination, *e. g., transfer, promotion, return of permanent incumbent.* | 12 Signature and designation of immediate Head of the Office. |
|---|---|---|---|---|
| | [illegible] | 14-1-80 | [illegible] | [illegible] 29/10/80 |
| During the period of 3 years I was in charge of this taluk I did not find any [illegible] with [illegible]. He is hard working & trustworthy. [illegible] 6/12/82 [illegible] V. [illegible] Amildar | [illegible] | 24-6-94 | [illegible] | [illegible] |
| | [illegible] | 2-12-95 | [illegible] | [illegible] |
| [illegible Kannada handwriting] 17/5/83 [illegible] 83 [illegible] 11 [illegible] 102 [illegible] 11/7/83 [illegible] | [illegible] | 30-4-97 | | |

(4)

Read,
Letter No 8106 of
P&A 777,

22nd June/99 from
the Comptroller & the
Govt. of Mysore submit-
-ting for the orders of Govt.
an application for
pension on behalf of
Shamanna retired
Shikdar & Sarvi
holder - Hosmale Talug-
duly verified and
reported on.

Order. Rs 3490 1/2 9/12-9-99

In this case the
Comptroller has recom-
-mended a pension of
Rs. 3-2-10, the amount

Read letter from the Comptroller & the Govt. of Mysore submitting for the orders of Govt. an application for pension on behalf of Shamanna retired Shikdar & Sarvi holder - Hosmale Talug- duly verified and reported on.

Order. Rs 3490 1/2 9/12-9-99

In this case the Comptroller has recommended a pension of Rs. 3-2-10, the amount

Submit for approval
DR 7/9-

Submitted for Govt. order
7-9-99
DR 9/9

12141/
Approved
DR

Issue an order
sanction pension
as proposed in Monthly Cover
DR
9-9-99

Order issued
Do Co Q
11-9-99.

DR 11/9

Press Communiqué.
MHR
14.9.99.

for deducted under
art: 32 (a) of the
Navy Service Act
having been omitted
with reference to
age of the applicant
at the commencement
of his service
In a not. note to
pension application
the Controller has
made an alternative
proviso in the following
words:—
"For the words 'com-
-mencement of his
training service' in
article 32 (a) of the
Navy Service Act
1908 when commencing
a service which qualifies
for

articles 234 - 36 and
not commencement of
service qualifying for
the pension in which
the applicant is entitled
the amount by
deducted would be
less and the applicant
would be entitled to a
pension not exceeding
Rs. 3 - 6 - 4.

2. The Govt. are of
opinion that the inter-
pretation of art. 321
(a) admits of no doubt
whatever. Reading
that article with art.
322 the words "at the
commencement of his
qualifying service" oc-
curring in the former
clearly mean the date

on which the applicant entered the service to post though in an inferior capacity the same view is expressed in the British Civil Service Regs. Vide the amended Rule 522 which runs as follows: —

For the purpose of applying Article 521 a. corresponding to Art. 321-a. of the Regs.) the date of commencement of qualifying service of a Postmen or Village Postman promoted to Inferior Service under ... the date of

& tho' in such capacity he did not draw sufficient pay ... a pension or a gratuity.

actual commencement
of inferior service.
3. In the present case
Shamanna entered the
inferior service afsr.
on 11th Sept-/57 when
he was in his 39th year
having been born on
the 26th January/39.
his superior service
began on 15th Jan 1/80
when he was 41 years old.
For purposes of the deduc-
-tion to be made under
art. 321(a) his "quali
-fying service" is reckon-
-ed from 11th Sept-/57
and a reduction of
9/40ths only has to be made,
his age on that date being
nearly 9 yrs in excess
of 30, and not a reduction

of the regu-
late Division
viz: 2, 3-6-4 to
accounts sanctioned
4- The Comptroller
will be requested
in dealing with
similar applications
in future to apply
the Rule or Article
which he considers
quite applicable, any
case of doubt being
referred by reference
in a schedule com-
-munication and
not by a post-note
ark

READ—

Letter No. 8106—P. & A. 777, dated 22nd June 1899, from the Comptroller to the Government of Mysore, submitting for the orders of Government an application for pension on behalf of Shamanna, retired Shekdar of Sasvi hobli, Honnali taluk, duly verified and reported on.

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No. 3490—MIS. 292, DATED BANGALORE, 12TH SEPTEMBER 1899.

ORDER THEREON.—In this case the Comptroller has recommended a pension of Rs. 3-2-10, the amount to be deducted under Article 321 (*a*) of the Mysore Service Regulations, having been computed with reference to the age of the applicant at the commencement of his *superior* service. In a foot-note to the pension application the Comptroller has made an alternative proposal in the following words :—

"If the words "commencement of his qualifying service" in Article 321 (*a*) be taken to mean "commencement of service which *generally* qualifies as defined in Articles 234-3b" and not "commencement of service qualifying for the pension to which the applicant is entitled," the amount to be deducted would be less and the applicant would be entitled to a pension not exceeding Rs. 3-6-4."

2. The Government are of opinion that the interpretation of Article 321 (*a*) admits of no doubt whatever. Reading that Article with Article 322 the words "at the commencement of his qualifying service" occurring in the former clearly mean the date on which the applicant entered the service of Government, though in an *inferior* capacity and though in such capacity he did not serve sufficiently long to earn either a pension or a gratuity. The same view is expressed in the British Civil Service Regulations, *vide* note appended to Rule 522 which runs as follows :—

"For the purpose of applying Article 521-a—(corresponding to Article 321 (*a*)—of the Mysore Service Regulations) the date of commencement of qualifying service of a postman or village postman, promoted to superior service under Article 439, is the date of actual commencement of inferior service."

3. In the present case, Shamanna entered the inferior service of Government on 11th September 1877 when he was in his 39th year, having been born on the 26th January 1839. His superior service began on 15th January 1880 when he was 41 years old. For purposes of the deduction to be made under Article 321 (*a*) his "qualifying service" is reckoned from 11th September 1877 and a reduction of 9/40ths only has to be made, his age on that date being nearly 9 years in excess of 30, and not a reduction of 11/40ths as computed by the Comptroller. The higher rate of pension, *viz.*, Rs. 3-6-4 is accordingly sanctioned, with effect from 1st October 1898, the charge being debited to "General Revenues."

4. The Comptroller will be requested, in dealing with similar applications in future, to apply the Rule or Article which he considers quite applicable, any case of doubt being referred for orders in a separate communication, and not by a foot-note.

C. SREENIVASIENGAR,
*Secy. to Govt., Gen. & Rev. Depts.*

To—The Comptroller to the Government of Mysore, with 1st page of pension application.
The Deputy Commissioner, Shimoga District.

OFFICE OF THE
3702
21-10-99
DEPARTMENT

?Rev 545-

(5)

123/

189

(5)

*From*

*The Comptroller, Mysore Govt.*

*To*

*The Secretary to the Govt. of Mysore,*

Genl & Rev. Dept.s

*Dated* 6th Oct. 1899.

*Despatched*

*Received*

*No.* 2035.

*No.*

SUBJECT MATTER.

Begging for a reconsideration of the ruling of Govt. Ivor. No. 3490 M 292 Dt 12th Septr for reasons stated herein :

Referred to Bl.

Bl

21/10/99

Recd 25-10-99

Answered with Pla
Ref
21
11

D.A
21.10.99
D. 24-10-99.

No. 2035 bl

DEPARTMENT.

OFFICE OF THE COMPTROLLER, MYSORE GOVT.

Bangalore, 16th October 1899

From

E. R. SUBRAYEN, Esq.,

Comptroller, Mysore Govt.

To

The Secretary to the Govt. of Mysore,

General and Revenue D. 78

Sir,

I have the honor to acknowledge receipt of Government Pro: No. 3490/m292 dated 12th September 1899 covering an interpretation of the term qualifying service used in article 321(a) of the Mysore Service Regulations.

2. With due deference I beg to submit that the amount of pension Rs 3. 2. 10 was recommended by me after satisfying myself personally that it was the correct amount, but as the gazetted officer in charge of the Pension Branch of my office expressed in an office note a doubt on the point and the possibility of a different interpretation, I ordered a reference to be made which I now regret to find has been simply suggested in a foot-note instead of being made formally in a letter explaining all the points for and against the question at issue.

3 I now beg therefore to submit that for deduction under article 327(a) I took for the date of Commencement of qualifying Service that date on which the applicant first entered Superior Service not because that his inferior service did not qualify for inferior gratuity, but because that was the date which was taken as the commencement of his qualifying superior service for computing his superior Pension.

4. Articles 234 to 236 define the beginning of qualifying service, and the conditions of such qualification. For purposes of pension there are two kinds of service, Superior and inferior, each having its own definition, rules of qualification and reckoning, independent of the other. Articles 234 (a) and (b) lays down what should be taken as the beginning of qualifying superior service and presumably in all claims based upon such superior Service independently of any inferior service that may have been rendered before such superior Service commenced for which separate rules exist.

5. Following the definition not only in the case of Superior pensions alone, but also in the case of Superior pension for superior Service and inferior gratuity for inferior Service, Superior pensions have been and are being calculated upon the length of Superior Service Commencing from the date of attaining 20 years of age as ruled in article 234(a) or from the date of first appointment to such

such Inferior Service as laid down in article 234(b). As now ruled by Government the date of commencement of qualifying Service for applying deduction to such Superior pension is to be different from that taken for reckoning and calculating such pension, being in the first case the date of first appointment to any qualifying Service even though it may be ~~any~~ inferior one in the second the date on which the Superior Service alone commenced, which I venture to submit cannot be the case, as a term only defined in the Regulations is intended to be used in that one and the same sense unless there are special and exceptional rules in the same Regulations laid down for application in special cases.

6. I cannot find any such special rule applicable to all inferior servants promoted to Superior Service claiming either Superior pension alone or Inferior pension for Superior Service and inferior gratuity for inferior Service either in the sections defining 'beginning of Service' or the chapter containing rules for reckoning Service or in the chapter on amount of pension. On the other hand, article 322(a) the only authority applicable for deductions from Superior pension claimed by an officer promoted from inferior to Superior Service lays down as a general rule that if such an officer enters Government Service after he attained the age of 25, the deduction as calculated under article 321(a)

must be applied to any Superior pension, he may claim for the Superior Service rendered by him. If the interpretation now ruled by Government be acted upon, this rule, article 322(a), becomes altogether inoperative in the case of the only officers for whom it was intended, viz. those that enter inferior Service after age of 25 and before 30. and who claim Superior pension for Superior Service rendered after 30 years of age.

7. I further beg to invite kind attention of Government to note (1), article 521(a), of the British Civil Service Regulations and to submit that this note of exception which has not been made in our Regulations, only proves an exception to the General rule viz 521(a) as interpreted by me. Article 522 of British Civil Service Regulations ~~referred to~~ in para 2 of the Government Pro: above quoted, I beg to submit with all deference, is a special rule also proving the general rule as interpreted by me and is applicable to the case of only such of the inferior Servants as have been promoted to Superior Service under certain conditions and whose service, whatever be the pay, is declared as Superior under article 439, and is reckoned as such in calculating their Superior pension.

8. In conclusion, I once more regret that owing

owing to the oversight already admitted in ..
para 2 above, I am obliged to trouble the ..
Government with this lengthy communication
and beg for a reconsideration of the ruling,
which if acted upon, will entail additional
Cost on Government, which in my humble
opinion is not warranted by the Service
Regulations as at present in force. Pend-
-ing further orders I have ~~not~~ taken the
liberty of not issuing the Pension Pay order
in this case.

I have the honor to be,
Sir,
your most obedient Servant,

Comptroller.

&c

Subd. Secy. for
appl. RR 5/1/07.

(10)

From 1901

THE SECY. TO THE GOVT OF MYSORE,
GEN. & REV. DEPTS.

To The Comptroller
to the Govt of Mysore

Dated 17th January 1901.
Despatched
Received
General No. 9103
P & A No. 888
Enclosure No.

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His letter No 2035
d/ 6th October 1899,
soliciting reconsidera-
tion of the interpre-
tation of ~~the provisions~~
in article 321(a) of
the Imperial Service
Regulations put by
the Govt in Pro:
No. 3490 / P & A 292 d/ 12th
September 1899 ~~in~~
in the present case
of Shamanna Lala
Shekdar of Basri
Hobli Bomali
Taluk.

---

Has

Has the honor to request the Comptroller will be so good as to consult the Accountant General Madras, ~~on the point in question~~ and submit his views to enable Govt to pass final orders on the subject.

"I have

12-1-01

Secretary

as to the practical application of the corresponding article of the Civil Service Regs - as in force in British India

323

Pra. 144

Gen. 30]

OFFICE OF THE
115-92
18-4-01.
189
MAN OF MYSORE

*From*

E. R. SUBRAYER, Esq.,
*Comptroller, Mysore Govt.*

*To*

*The Secretary to the Govt. of Mysore,*
Rev. & Genl Dept.

*Dated* 3rd 14
*Despatched* 8 April 1901
*Received*
*General No.* 5230
*No.* 6662
*Enclosure No.*

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In reply to

SUBJECT.

Forwarding copies of this office letter No. 4897 dy 16/3/01. Pra. 625
Account Section office No. Pen V 577 dy 25/3/01. 12784
from which it will be seen that, that office agrees with this conclusion.

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*References* (to be entered only in the Dewan's Office).

Q.R. 14-99.

Q.R. 14 of 1899 is put up.
MK
16/4
And 17-4-01.

Submitted with an office note in continuation.

16/4/01

SPECIAL AUDIT DEPARTMENT.

No. 5230 f ~ OFFICE OF THE COMPTROLLER OF MYSORE.

Bangalore, 3rd April 1901. ~~139~~

8

*From*

E. R. SUBRAYER, Esq.,

*Comptroller, Mysore Government.*

*To*

*The Secretary to the Govt. of Mysore,*

General and Revenue *Dept.*

SIR,

With reference to your docket No. 9103 dated 17th January 01 requesting me to consult the Accountant-General Madras regarding the interpretation of article 321 (a) of the Mysore Service Regulations I have the honor to forward herewith copies of my letter No. 207 dated 16th March 01, to that Officer and his reply No. Pen 577 dated 23rd March 01 thereto from which it will be seen that that officer agrees with my conclusions and I request that final orders may be passed in this and similar cases referred to in your letter No. 9984 dated 6th February 01.

I have the honor to be,

Sir,

Your most obedient servant.

E R Subrayer

Comptroller.

V.U.C.

From

The Comptroller Mysore Government

5. 2

To

The Accountant-General Madras.

Dated 16th March 1901.

No 4897
Pen 625

Sir,

I have the honor to state that a pensioner A entered the inferior service of Government on 11th September 1877 when he was in his 39th year, having been born on the 26th January 1839, and was subsequently promoted to superior service on 15th January 1880 when he was 41 years old. He continued to serve in superior grade till he attained the age of 55 when he was retired on superannuation pension. For purposes of the deduction to be made under article 522 of the Civil Service Regulations, I request to be informed whether his qualifying service should not be reckoned from 15th January 1880 and a reduction of 11/40ths made from his pension.

I have etc,

(Sigd) E.R.Subrayer

Comptroller

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5 (L)

Mr Pen V 577
12784

From

The Accountant-General to the Government of Madras

To

The Comptroller of Mysore

Dated 25th March 1901.

No.

Sir,

In reply to your letter No.4897 dated the 16th March 1901, I have the honor to state that your conclusions are correct.

I have etc,

(Sd) W.Bryning

Chief Superintendent

True copies
E Ramaswamy
Asst Comptroller

1901

Read Draft from G.C.

Govt. Gro. No. 3490
Mis 292

dated 12 September 1899 forwarding orders on the pension application of Shamanna, retired Shekdar of Savi Hobli Honnali Taluk.

2. Comptrollers letter No. 2035 dated 6 Dec 99 recommending a reconsideration of the Govt. order read above on the ground that the term "qualifying service" occurring in art. 321(a) of the M. S. Regns if interpreted in the light of the said Government order would render the operation of art. 322 altogether impracticable.

Order thereon No. 4681-82
9814-99.

Government, on reconsideration are disposed to agree with the Comptroller in thinking that the deductions to be made under

Please send this back to P. A after appeal for attending to the pension applcn in the file

10/1/01

under Art: 321(a) for the purpose of art: 322 should be computed with reference to age at commencement of the Superior service for which the pension is granted ~~viz: Inferior service~~, and not that at the 1st entry into service.

2. This order while modifying the Proceedings read above, will not affect the pension already sanctioned for Shamanna.

Secretary

To
The Comptroller & Auditor
Govt: of Mysore

& Dy. Com: Shimoga
D.C.

READ—

Government Proceedings No. 3490—Mis. 292, dated 12th September 1899, passing orders on the pension application of Shamanna, retired shekdar of Sasvi hobli, Honnali taluk.

(2) Comptroller's letter No. 2035, dated 6th October 1899, recommending a reconsideration of the Government Order read above on the ground that the term "qualifying service" occurring in Article 321 (*a*) of the Mysore Service Regulations, if interpreted in the light of the said Government Order, would render the operation of Article 322 altogether impracticable.

No. 4681-82—G. F. 14-99, DATED BANGALORE, 14TH SEPTEMBER 1901.

ORDER THEREON—Government, on reconsideration, are disposed to agree with the Comptroller in thinking that the deduction to be made under Article 321 (*a*) for the purpose of Article 322 should be computed with reference to age at commencement of the superior service for which the pension is granted and not that at the first entry into service.

2. This Order, while modifying the Proceedings read above, will not affect the pension already sanctioned for Shamanna.

H. V. NANJUNDAYYA,
*Secy. to Govt., Gen. & Rev. Depts.*

To—The Comptroller to the Government of Mysore.
The Deputy Commissioner, Shimoga district.

Exd.—c.v.